

**TENTATIVE AGENDA & MINI BOOK
STATE WATER CONTROL BOARD MEETING
TUESDAY, MARCH 23, 2004
HOUSE ROOM C, GENERAL ASSEMBLY BUILDING
9TH & BROAD STREETS
RICHMOND, VIRGINIA**

Convene - 9:30 A.M.

- | | | | |
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| I. | Minutes | | A |
| II. | Permit Terminations | van Soestbergen | B |
| | Peterson Management Company (NRO) | | |
| | L & M Properties, LLC (NRO) | | |
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| V. | Consent Special Orders - Virginia Water Protection Permits | | E |
| | West Central Regional Office | Dietrich | |
| | Town of Rocky Mount & County of Franklin | | |
| | Piedmont Regional Office | Golden | |
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| | Rudolph, Inc., Kingsland Glen (Chesterfield County) | | |
| | Valley Regional Office | Liggett | |
| | Bridgewater College (Rockingham County) | | |
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| | United Land Corporation of America, Inc. (Albemarle County) | | |
| VI. | Consent Special Orders - Oil Related (UST/AST/Other) | | F |
| | Valley Regional Office | Liggett | |
| | C. L. Custer, Inc. (Harrisonburg & Rockingham County) | | |
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| | Robert W. Claytor (Shenandoah County) | | |
| | JERM Ltd. dba Northside Market (Nelson County) | | |
| | Tidewater Regional Office | Nold | |
| | C & M Industries, Inc. (Chesapeake) | | |
| VII. | Consent Special Orders - Virginia Pollutant Discharge Elimination System Permits | | G |
| | Tidewater Regional Office | Nold | |
| | A/H Olde Towne Marketplace, LLC (Accomack County) | | |

Terry/Peterson Development One, LLC (Isle of Wight County)	
South Central Regional Office	Waggoner
Town of Victoria	
Northern Regional Office	Crosier
Boston Water & Sewer Company (Culpeper County)	
South Wales Utility, Inc. (Culpeper County)	
Piedmont Regional Office	Golden
BFI Waste Systems of VA, LLC (Richmond)	
Brunswick County School Board	
Honeywell International, Inc., Hopewell	
INDMAR Coatings Corporation (Sussex County)	
St. Paul's College (Brunswick County)	
Sussex County School Board	
Town of Warsaw (Richmond County)	
Valley Regional Office	Liggett
Augusta County Service Authority/Fishersville Regional STP	

VIII. Consent Special Orders - Virginia Pollution Abatement **H**

Permits/Others

Valley Regional Office	Liggett
Campbell's Septic Tank Cleaning, Inc. (Augusta County)	
Grap Equipment, Inc. (Fluvanna County)	
National Fruit Product Company, Inc. (Winchester)	

IX. Permits

Houff's Feed & Fertilizer Company (VPA Permit)	Kiracofe	I
(Rockingham & Augusta Counties)		

X. Regulations

Cowpasture River Petition	Gregory	J
General VPDES Permits - Confined Animal Feeding	van Soestbergen	K
Operations - Proposed		
General VPDES Permits - Discharges of Storm Water - Final	Tuxford	L
General VPDES Permit - Nonmetallic Mineral Mining - Final	Gregory	M
Water Quality Management Planning -	Schneider	N
Public Participation Procedures		
Water Quality Management Planning Regulation -	Martin	O
TMDL Wasteload Allocations - Final		

XI. Public Forum

XII. Other Business

Revolving Loan Fund - Brownfield Remediation Loan Program	Gills	P
Future Meetings (March, 2004)	Berndt	

ADJOURN

NOTE: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions or deletions.

Questions arising as to the latest status of the agenda should be directed to Cindy M. Berndt at (804) 698-4378.

PUBLIC COMMENTS AT STATE WATER CONTROL BOARD MEETINGS: The Board encourages public participation in the performance of its duties and responsibilities. To this end, the Board has adopted public participation procedures for regulatory action and for case decisions. These procedures establish the times for the public to provide appropriate comment to the Board for their consideration.

For **REGULATORY ACTIONS (adoption, amendment or repeal of regulations)**, public participation is governed by the Administrative Process Act and the Board's Public Participation Guidelines. Public comment is accepted during the Notice of Intended Regulatory Action phase (minimum 30-day comment period and one public meeting) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period and one public hearing). Notice of these comment periods is announced in the Virginia Register and by mail to those on the Regulatory Development Mailing List. The comments received during the announced public comment periods are summarized for the Board and considered by the Board when making a decision on the regulatory action.

For **CASE DECISIONS (issuance and amendment of permits and consent special orders)**, the Board adopts public participation procedures in the individual regulations which establish the permit programs. As a general rule, public comment is accepted on a draft permit for a period of 30 days. If a public hearing is held, there is a 45-day comment period and one public hearing. If a public hearing is held, a summary of the public comments received is provided to the Board for their consideration when making the final case decision. Public comment is accepted on consent special orders for 30 days.

In light of these established procedures, the Board accepts public comment on regulatory actions and case decisions, as well as general comments, at Board meetings in accordance with the following:

REGULATORY ACTIONS: Comments on regulatory actions are allowed only when the staff initially presents a regulatory action to the Board for **final** adoption. At that time, those persons who participated in the prior proceeding on the proposal (i.e., those who attended the public hearing or commented during the public comment period) are allowed up to 3 minutes to respond to the summary of the prior proceeding presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Persons are allowed up to 3 minutes to address the Board on the emergency regulation under consideration.

CASE DECISIONS: Comments on pending case decisions at Board meetings are accepted only when the staff initially presents the pending case decision to the Board for final action. At that time the Board will allow up to 5 minutes for the applicant/owner to make his complete presentation on the pending decision, unless the applicant/owner objects to specific conditions of this permit. In that case, the applicant/owner will be allowed up to 15 minutes to make his complete presentation. The Board will then, in accordance with § 2.2-4021, allow others who participated in the prior proceeding (i.e., those who attended the public hearing or commented during the public comment period) up to 3 minutes to exercise their right to respond to the summary of the prior proceeding presented to the Board. Those persons who participated in the prior proceeding and attend the Board meeting may pool their minutes to allow for a single presentation to the Board that does not exceed the time limitation of 3 minutes times the number of persons pooling minutes or 15 minutes, whichever is less. New information will not be accepted at the Board meeting. No public comment is allowed on case decisions when a FORMAL HEARING is being held.

PUBLIC FORUM: The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than pending regulatory actions or pending case decisions. Anyone wishing to speak to the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentation to not exceed 3 minutes.

NEW INFORMATION will not be accepted at the meeting. The Board expects comments and information on a regulatory action or pending case decision to be submitted during the established public comment periods. However, the Board recognizes that in **rare** instances new information may become available after the close of the public comment period. To provide for consideration of and ensure the appropriate review of this new information, persons who participated during the prior public comment period **shall** submit the new information to the Department of Environmental Quality (Department) staff contact listed below at least 10 days prior to the Board meeting. The Board's decision will be based on the Department-developed official file and discussions at the Board meeting. For a regulatory action should the Board or Department decide that the new information was not reasonably available during the prior public comment period, is significant to the Board's decision and should be included in the official file, an additional public comment period may be announced by the Department in order for all interested persons to have an opportunity to participate.

The Board reserves the right to alter the time limitations set forth in this policy without notice and to ensure comments presented at the meeting conform to this policy.

Department of Environmental Quality Staff Contact: Cindy M. Berndt, Director, Regulatory Affairs, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240, phone (804) 698-4378; fax (804) 698-4346; e-mail: cmberndt@deq.state.va.us.

Permit Terminations: The following voluntary permit terminations will be considered: Peterson Management Company, L & M Properties, LLC and Synagro Mid-Atlantic, Inc.

Significant Noncompliance Report:

Permittee/Facility: Alexandria Sanitation Authority, Alexandria ASA Advanced Wastewater Treatment

Facility: Type of Noncompliance: Failure to Meet Effluent Limits (PHOS, TSS)

The facility is in the final phases of a \$340,000,000 upgrade. The upgrade is necessary to ensure compliance with permit effluent limits and a nitrogen limitation goal. The upgrade was substantially complete at the end of 2002, however certain critical treatment units (i.e. clarifiers, filters, a digester) remained offline or unimproved. The Authority estimates that construction will be fully complete in 2006. Staff of the Department's Northern Regional Office are evaluating the need for a formal compliance schedule to address the referenced violations.

Permittee/Facility: Town of Culpeper, Culpeper Wastewater Treatment Plant

Type of Noncompliance: Failure to Meet Effluent Limit (Ammonia as Nitrogen)

The facility is currently undergoing an extensive upgrade to install biological nutrient removal to meet permit effluent limits for ammonia. The cost of the upgrade is \$4,000,000. At the time that the referenced violations occurred the facility's clarifiers were being refurbished. Refurbishing of the clarifiers has since been completed, in December, 2003. The Town originally anticipated that the entire facility upgrade would be complete in January, 2004, but completion has been delayed due to wet weather. Staff of the Department's Northern Regional Office is negotiating an administrative order with the Town to address the referenced violations and any other compliance issues that may arise as a result of delay in completion of the plant's upgrade.

Permittee: City of Roanoke, Roanoke Regional Water Pollution Control Plant

Since 1992 the City has been subject to various administrative orders that required corrective action to address infiltration and inflow (I&I) in the plant's collection system. Currently I&I has increased to the extent that the plant's treatment capabilities have been adversely affected. Staff of the Department's West Central Regional Office are currently negotiating an order with the City that will holistically address the City's I&I problems.

Permittee: Omega Protein Inc.

Omega has requested a permit amendment to eliminate the referenced ammonia effluent limit. The foregoing being the case, staff of the Department's Piedmont Regional Office do not anticipate the need for enforcement action in this matter.

Consent Special Order Cancellations: The following consent special orders will be presented for cancellation: Bunker Hill Foods, Inc.; Camp Virginia Jaycee Sewage Treatment Plant; Ferrum Water and Sewage Authority; Westvaco Corporation and Loyd P. White.

Town of Rocky Mount and County of Franklin - Trinity Packaging Site; Franklin County; Consent Special Order with Civil Charges: The Town of Rocky Mount and Franklin County jointly obtained a VWP Permit on September 2, 2002 for construction of a manufacturing site in Rocky Mount. DEQ staff documented numerous violations of that Permit in a series of inspections beginning on September 26, 2002. Violations included failure to install and maintain certain erosion and sediment controls, failure to properly complete and revise its erosion and sediment control plan, chronic late submittal of monitoring reports, failure to perform all construction in accordance with approved plans and specifications, failure to record easements, and unauthorized disposal of dredged material. Construction of the facility was completed in the Summer of 2003. The consent order before the Board would require the Town and County to pay a civil charge for the permit violations. It also requires completion of installation of vegetative stabilization measures and recordation of easements at the mitigation site. All other violations had been corrected before the Town and County signed the Order. The Town and County have complied with all deadlines that have come due so far in the Schedule of Compliance of the Order. Civil charge: \$7,500

Carrington L.L.C., Carrington Subdivision, Henrico County; Consent Special Order with Civil Charges: Carrington Subdivision is an 80 acre residential development in Henrico County. During a file review conducted in August 2002 and five site inspections performed between August 2002 and May 2003, several violations of the VWP permit were identified. Site inspections identified problems with erosion and sediment control practices resulting in significant sedimentation to 150 linear feet of stream. Unauthorized impacts to wetlands (0.55 acres) were also noted. Administrative violations discovered during file review include failure to submit a 10-day letter notification prior to construction, failure to submit final plans and specifications, failure to submit documentation of wetland credit purchase and failure to submit quarterly progress reports. The Department issued three Notices of Violation in October 2002 and January and June of 2003. The order requires installation of additional erosion and sediment control measures, removal of sedimentation from the stream, submission of revised plans and specifications, proof of wetland credit purchase and application for a permit modification. Cost of injunctive relief is estimated to be \$3,200. Civil charge: \$9,500.

Rudolph, Inc., Kingsland Glen Subdivision, Chesterfield County; Consent Special Order with Civil Charges: Kingsland Glen Subdivision is a 113 acre residential development in Chesterfield County. Review of an application received in November 2002 indicated that wetland impacts had been made in 2001 and 2002 prior to obtaining a permit. The Department issued a Notice of Violation in February 2003 for failure to obtain a permit. The order requires submission of a complete permit application and

documentation of purchase of mitigation bank credits. The cost of injunctive relief for the purchase of 0.324 acres from the mitigation bank is estimated to be \$19,500. Civil charge: \$6,000.

Bridgewater College, Bridgewater: Consent Special Order w/ Civil Charges: On July 15, 2003, DEQ issued coverage to Bridgewater College under VWP General Permit WP4-03-1408 ("the Permit"). The Permit authorizes the impact of 550 feet of linear emergent wetland that is approximately 12 feet wide (0.15 acre). The authorized impacts are associated with construction of Bridgewater College's New Student Housing Project ("the Project"). The Permit required mitigation of the impacts through the purchase of 0.15 credit from the Shenandoah Wetlands Bank, LLC. In late July 2003, a third party working for Bridgewater College commenced construction activities at the Project. On August 8, 2003, DEQ staff inspected the Project to evaluate compliance with the Permit and observed that construction activities had impacted areas beyond the scope of those areas authorized for impact under the Permit. Specifically, staff observed that construction activities were impacting additional wetlands. On August 21, 2003, DEQ issued a Notice of Violation to Bridgewater College citing violations of State Water Control Law, the Permit and the VWP Regulation. On September 10, 2003, staff of DEQ determined that the unauthorized activities had resulted in the impact of an additional 0.30 acre of wetland. The Order requires Bridgewater College to compensate for the additional impacts through the purchase of additional credits from the Shenandoah Wetlands Bank, LLC. The cost of injunctive relief is \$41,250. Civil charge: \$ 5,850

Hollymead Town Center, LLC, Albemarle County; Consent Special Order w/ Civil Charges: The Hollymead Town Center Project – Area A & B ("the Project") is a commercial real estate development located along Route 29 in Albemarle County south of the Charlottesville Airport. On May 29, 2003, DEQ issued coverage to Regency Centers, LLC ("Regency") under Virginia Water Protection Permit No. WP4-03-0435 ("the Permit") for activities associated with construction of the Project. The Permit authorizes Regency to fill 0.14 acre of Palustrine Emergent wetlands, 0.02 acre Palustrine Open Waters and 1,464 linear feet of intermittent stream channel for the development of the Project. Under the terms of the Permit, impacts are to be mitigated on site at a 1:1 ratio. On October 21, 2003, DEQ staff inspected the Project and observed that construction of the Project had commenced by United Land Corporation of America ("ULCA") and that impacts authorized by the Permit had occurred. Staff also observed that impacts had occurred that were outside of the scope of those authorized under the Permit. Among other things, staff observed that 17 linear feet of an unnamed tributary of Powell Creek located outside of the permitted impact area had been impacted by ULCA's construction activities. At a later date, a representative of Regency indicated to DEQ staff that a copy of the Permit had been provided to ULCA. Staff also observed that the Project construction site was configured to discharge stormwater from the site into an unnamed tributary of Powell Creek. Staff noted that the Project construction site had not been issued coverage under a General VPDES Permit authorizing discharge of stormwater from the Project construction site. On October 29, 2003, staff of DEQ met with representatives of ULCA and Regency to discuss the apparent violations observed during the October 21, 2003, inspection. The representatives of Regency and ULCA advised DEQ that the Project would be divided in two (separating Areas A & B) and that Regency and ULCA would be developing the areas separately. DEQ staff advised Regency and ULCA that it was advisable to separate the Project into two VWP permits according to ownership. During the meeting, ULCA submitted a registration statement for the entire Project for coverage under a General VPDES Permit for construction site stormwater management. Regency indicated its intent to DEQ to change ownership of the Permit from Regency to Hollymead Town Center, LLC. Coverage under VPDES General Permit No. VAR103071 for construction site stormwater management was issued to ULCA on October 30, 2003. On November 14, 2003, DEQ issued a Notice of Violation to Regency citing violations of State Water Control Law, the VWP Regulation and the Permit. A separate enforcement action is being taken against ULCA regarding the 17 linear feet of unpermitted impact and unpermitted

stormwater discharge. The Order requires Hollymead to modify its VWP Permit for that portion of the Project it will develop. DEQ has issued the modified Permit to Hollymead. The cost of the injunctive relief consists of permit modification and consulting fees. Civil charge: \$3,500

United Land Corporation of America, Inc., Albemarle County; Consent Special Order w/ Civil Charges: The Hollymead Town Center Project – Area A & B ("the Project") is a commercial real estate development located along Route 29 in Albemarle County south of the Charlottesville Airport. On May 29, 2003, DEQ issued coverage to Regency Centers, LLC under a Virginia Water Protection Permit for activities associated with construction of the Project. The permit authorizes Regency to fill 0.14 acre of Palustrine Emergent wetlands, 0.02 acre Palustrine Open Waters and 1,464 linear feet of intermittent stream channel for the development of the Project. Under the terms of the permit, impacts are to be mitigated on site at a 1:1 ratio. On October 21, 2003, DEQ staff inspected the Project and observed that construction of the Project had commenced by United Land Corporation of America ("ULCA") and that impacts authorized by the permit had occurred. Staff also observed that impacts had occurred that were outside of the scope of those authorized under the permit. Specifically, staff observed that 17 linear feet of an unnamed tributary of Powell Creek located outside of the permitted impact area had been impacted by ULCA's construction activities. Staff also observed that the Project construction site was configured to discharge stormwater from the site into an unnamed tributary of Powell Creek. Staff noted that the Project construction site had not been issued coverage under a General VPDES Permit authorizing discharge of stormwater from the Project construction site. On October 29, 2003, staff of DEQ met with representatives of ULCA and Regency to discuss the apparent violations observed during the October 21, 2003, inspection. The representatives of Regency and ULCA advised DEQ that the Project would be divided in two (separating Areas A & B) and that Regency and ULCA would be developing the areas separately. DEQ staff advised Regency and ULCA that it was advisable to separate the Project into two VWP permits according to ownership. During the meeting, ULCA submitted a registration statement for the entire Project for coverage under a General VPDES Permit for construction site stormwater management. Coverage under VPDES General Permit No. VAR103071 for construction site stormwater management was issued to ULCA on October 30, 2003. On November 14, 2003, DEQ-VRO issued a Notice of Violation to ULCA citing violations of State Water Control Law, the VWP Regulation and the VPDES Regulation. A separate enforcement action is being taken against Regency (now Hollymead) regarding violations of its Virginia Water Protection Permit. The Order requires ULCA to apply for a VWP Permit for that portion of the Project it will develop. The Order requires ULCA to mitigate the 17 linear feet of impact taken outside of the Project's originally permitted area. The cost of injunctive relief is estimated to be \$3,000. Civil charge: \$2,000

C. L. Custer AST Facility, Rockingham County; Consent Special Order w/ Civil Charges: On November 5, 2002, an employee of C. L. Custer, the owner and operator of an AST facility, overfilled the 17,000-gallon horizontal diesel AST during a rain event and failed to observe the discharge or report it. The discharge, which was approximated at 550 gallons, flowed out the dike through the open dike valve, across the facility parking lot and into a storm drainage ditch. The diesel flowed through the storm drainage ditch under US Route 33 to the south side of the highway and into a stream, which travels through the Harrisonburg golf course. A golf course employee noticed the presence of diesel in the stream and reported it to Harrisonburg Fire Department on November 6, 2002. This discharge occurred in an apparent violation of State Water Control Law Section 62.1-44.34:18. On November 6, 2002, DEQ staff responded to the spill and consultants were hired by Custer to contain and remove any residual product and contaminated soil resulting from the discharge. On November 20, 2002, DEQ staff conducted a formal inspection of the Facility. DEQ noted additional deficiencies during this inspection. In response to the discharge and the apparent violations of the Regulation noted during the inspection, DEQ staff issued a Notice of Violation (No. 02-12-VRO-1) to Custer on December 2, 2002. The NOV was specifically

issued for failure to comply with State Water Control Law Article 11, Section 62.1-44.34:18; Section 62.1-44.34:15.1; 9 VAC 25-91-130 & 9 VAC 25-91-170. The NOV requested that Custer respond by December 13, 2002, and included a copy of the formal inspection results, detailing the apparent violations noted above. On January 15, 2002, Custer's consultant met with DEQ staff to discuss certain requirements of the regulations and to convey continuing developments of the Facility remodeling project. Detailed information regarding the requirements of the Regulation was provided to the contractor. Custer signed a Consent Special Order (CSO or Order) with DEQ on July 15, 2003, agreeing to payment of civil penalties in addition to significant upgrades to the AST (above-ground storage tank) facility. A second CSO was signed, amending and thereby superceding the first CSO, on December 5, 2003, because Custer elected to replace all ASTs on-site with new USTs (underground storage tanks) instead of upgrading the ASTs, requiring amendment to the Appendix A of the Order. The proposed Order addresses each deficiency noted during the November 20, 2002 inspection of the AST facility and assesses a civil charge. In addition, Appendix A of the Order requires Custer to submit a UST Notification Form 7530 for all newly-installed USTs by December 31, 2003, and, addressing PC (Pollution Complaint) #2003-6041, to respond to any further requests by DEQ for SCR Addenda. Custer has complied with Appendix A and is presently operating in compliance with all regulatory provisions. Civil charge: \$10,607

H. N. Funkhouser and Co./Handy Mart #9, Frederick County; Consent Special Order w/ civil charges: H. N. Funkhouser and Co. (Funkhouser), owns and operates an underground storage tank (UST) facility located at 5116 Main Street, Stephens City, Virginia. Funkhouser stores petroleum in these USTs under the requirements of 9 VAC 25-580-10 et seq. Underground Storage Tanks: Technical Standards and Corrective Action Requirements (UST Regulations). The UST regulations require that owners of UST facilities protect steel components of the USTs from corrosion, properly upgrade or close non-compliant USTs by December 22, 1998, properly register USTs and maintain compliance records for DEQ review. A February 20, 2002, formal UST inspection performed at the facility revealed that Funkhouser was not protecting steel components of the USTs from corrosion, had not properly upgraded or closed non-compliant USTs, provided incorrect UST registration information and failed to maintain compliance records for DEQ review. DEQ issued a Warning Letter (WL) to Funkhouser, dated August 15, 2002, for these alleged violations. The inspection also resulted in the discovery of a confirmed release of petroleum, reference PC # 2002-6072. The PC investigation was closed on January 10, 2003. Funkhouser responded to the Warning Letter by meeting with DEQ on May 14, 2003, to review the alleged violations. The majority of the violations still existed at the time of the meeting. Having failed to resolve the violations, DEQ issued an NOV to Funkhouser on July 23, 2003. On October 2, 2003, Funkhouser met with DEQ staff to discuss resolution of the NOV and to inform DEQ of Funkhouser's intention to replace the USTs. This would resolve the majority of the violations noted. Funkhouser has replaced the USTs and complied with the conditions of Appendix A in the Order. This satisfies the violations noted in the NOV and no additional corrective action is sought by DEQ. Civil charge: \$11,987

Robert W. Claytor dba Handy Mart #10, Shenandoah County; Consent Special Order w/ civil charges: Robert W. Claytor (Claytor), owns and operates an underground storage tank (UST) facility located at 314 West King Street in Strasburg, Virginia. Claytor stores petroleum in these USTs under the requirements of 9 VAC 25-580-10 et seq. Underground Storage Tanks: Technical Standards and Corrective Action Requirements (UST Regulations). The UST regulations require that owners of UST facilities protect steel components of the USTs from corrosion, perform release detection on USTs and associated piping, properly close out-of-service USTs, properly register USTs and maintain compliance records for DEQ review. A January 28, 2002, formal UST inspection performed at the facility revealed that Claytor was not protecting steel components of the USTs from corrosion, performing release detection on USTs and associated piping, had not properly closed out-of-service USTs, provided incorrect UST registration information and failed to maintain compliance records for DEQ review. DEQ issued a Warning Letter

(WL) to Claytor, dated April 17, 2002, for all these alleged violations. Claytor responded to the WL on May 1, 2002, by providing copies of passing release detection records for all USTs and failing corrosion protection test results for most of the USTs. Claytor then entered into a Letter of Agreement (LOA) to resolve the remaining issues by properly closing the existing USTs by August 15, 2002. Additionally, the LOA required Claytor to submit correct UST registration and material-of-construction documentation. On May 15, 2003, Claytor met with DEQ staff to discuss resolution of this matter. Most violations previously noted were resolved as a result of the closure of many of the USTs. However, Claytor failed to submit correct registration information and proof of material-of-construction for one remaining UST. As a result of the continuing violation regarding submittal of incorrect UST registration information and failure to provide requested UST compliance documentation, DEQ issued a Notice of Violation to Claytor on July 23, 2003. Claytor provided updated and purportedly correct UST registration information to DEQ on August 9, 2003. He did not submit supporting documentation for the UST's material-of-construction until October 7, 2003. This satisfies the violations noted in the NOV and no corrective action remedy is sought by DEQ. Civil charge: \$500

JERM Ltd. dba Northside Market, Nelson County; Consent Special Order w/ civil charges: JERM Ltd. dba Northside Market (JERM) owns and operates an underground storage tank (UST) facility located at 911 Front Street in Lovingson, Virginia. JERM stores petroleum in these USTs under the requirements of 9 VAC 25-580-10 et seq. Underground Storage Tanks: Technical Standards and Corrective Action Requirements (UST Regulations). The UST regulations require that owners of UST facilities perform release detection on the USTs and associated piping, protect steel components of the USTs from corrosion and install overfill and spill prevention on the USTs. A UST inspection conducted by DEQ staff on March 28, 2002, revealed that JERM had incorrectly registered the USTs and was operating the USTs without adequate corrosion protection and without performing release detection in violation of the UST regulations. DEQ staff issued a Warning Letter to JERM on August 16, 2002, which requested a response and required that JERM bring the facility into compliance with the UST regulations. JERM failed to do so. As a result of the continuing violations, DEQ staff issued an NOV to JERM on May 22, 2003. JERM met with DEQ staff on July 29, 2003, to discuss possible resolutions to this matter and subsequently informed DEQ staff on August 20, 2003, of its intent to close the USTs. Based on the information from the UST inspection reports, JERM had no records of performing release detection on the USTs nor of testing the corrosion protection system (CP) at the required intervals. JERM never did provide release detection records for the USTs, but it did provide copies of passing CP test results performed on June 10, 2003. JERM did not comply with the UST Regulations while the USTs were in use, and was only able to comply by placing the USTs in temporary closure, which it did on October 30, 2003. Based on this temporary closure, the facility is in compliance with the UST regulations. The proposed order requires JERM to permanently close the USTs by October 30, 2004. The estimated cost to permanently close the USTs is \$10,000.00 Civil charge: \$3,500

C&M Industries, Inc., Chesapeake; Consent Special Order w/ Civil Charges: On October 31, 2001, Barge B-1 which is owned by C&M Industries, Inc. ("C&M") was offloading fuel oil from the USS San Jacinto which was in drydock at the Metro Machine yard in Norfolk. The B-1 was to transport the fuel from Metro to the Navy's Craney Island Fuel Facility. A concealed and unmarked I-beam protruding from the drydock below the waterline ripped a three inch gash in the mid-port side cargo tank of Barge B-1 when the barge was pulled away from the drydock by a tugboat. C&M and its oil spill response contractor immediately responded to the release, boomed off the barge and drydock, and implemented its Coast Guard-approved Vessel Response Plan. From tank soundings, it is estimated that approximately 8,500 gallons of fuel oil was discharged from the barge into the water. At the time of the spill, Barge B-1 had not filed and did not have an approved Oil Discharge Contingency Plan with DEQ. In addition, at the time of the spill, Barge B-1 was not in compliance with the financial responsibility requirements of the

Tank Vessel Oil Discharge Contingency Plan and Financial Responsibility Regulation. Barge B-1 did have a U.S. Coast Guard-approved Vessel Response Plan, and was in compliance with the federal financial responsibility requirements for tank vessels. According to the U.S. Coast Guard, the release created a sheen, emulsion and discoloration of the river. The Coast Guard classified the release as a "harmful quantity." Marine diesel contains volatile constituents that will dissolve in water and are toxic to aquatic organisms. No reports of dead ducks or fish were received. The Order requires C&M to notify DEQ of any newly acquired tank vessels 30 days prior to transporting oil in them and ensure that all newly acquired vessels are in full compliance with the Regulation prior to transporting oil in them. Civil charge: \$42,000 of which \$12,000 is to be paid within 30 days and \$30,000 may be offset by the completion of a supplemental environmental project.

A/H Olde Towne Marketplace, L.L.C., Accomack County; Consent Special Order w/ Civil Charges: A/H Olde Towne Marketplace, L.L.C. owns and operates the Oak Hall Shopping Center which is served by a package sewage treatment plant ("STP"). During the period January 2003 through November 2003, the discharge from the STP exceeded the permitted total suspended solids effluent limitation in March, April, July, August, September, October and November, the fecal coliform limit in February, March, April, June, July, August, October and November, the dissolved oxygen limit in February, March, April, May, June, July, August, September and October, the total kjeldahl nitrogen limit in July, August, September, October and November, and the carbonaceous biochemical oxygen demand limit in August and November. Old Towne has taken the following corrective actions to address the referenced violations: replaced the ultraviolet disinfection unit, obtained spare modules, relocated the sand filter and the ultraviolet unit above grade, and installed a post aeration system. The flows from the facility are typically 2,000 GPD. The discharge flows through a manmade drainage ditch for approximately 300 yards before entering a natural waterway. No obvious signs of septic conditions were noted in the receiving stream. The repairs already completed by the owner are believed to have corrected most of the problems experienced by the STP. Approximately \$20,000 has been spent on repairs and upgrades. The Order requires the facility to come into full compliance with their permit by April 1, 2004. The Order also requires an evaluation of the wastewater that is being received by the STP in order to determine if it contains toxicity that may be upsetting the treatment process. If this is occurring, steps must be taken to remove the toxicity. Civil charge: \$8,000

Terry / Peterson Development One, L.L.C., Isle of Wight County; Consent Special Order w/ Civil Charges: Terry Peterson Residential Companies (TPRC) owns Tracts 5, 6, and 7 of the Eagle Harbor residential development located in Isle of Wight County, VA. The total land area of tracts 5, 6, and 7 is approximately 115 acres with a total disturbed area of approximately 50 acres. DEQ inspected Tracts 5,6, and 7 five times between December 17, 2002 and March 17, 2003. During these inspections, DEQ observed nine unauthorized storm water discharges, eight of which Eagle Harbor failed to report. Other VPDES permit violations documented include: 1) erosion and sediment (E&S) controls were not installed and/or maintained; 2) soil stockpiles were not correctly maintained, stabilized, and /or protected with sediment trapping devices; 3) documentation of major grading activities and contractor and subcontractor certifications were not recorded in the storm water pollution prevention plan; and 4) accumulated sediments offsite were not removed to minimize offsite impacts. The consent special order requires TPRC to comply with the Permit and requires a civil charge payment. On July 18, 2003 and September 18, 2003, DEQ made site visits and observed that TPRC was in substantial compliance with the Permit. Civil charge: \$14,240

Town of Victoria, Lunenburg County; Consent Special Order – Issuance: The plant provides wastewater treatment to the citizens of Victoria, Virginia. The facility exceeded 95 percent design flow for three consecutive months in the spring of 2003, and failed to submit a plan of action to correct the flow

exceedances as required by the permit. Further, the facility exceeded permit limitations for ammonia nitrogen in January, February, March, and May 2003, and the facility began exceeding the limit again in the fall of 2003. The design flow exceedances, and to some extent the ammonia nitrogen exceedances, are the result of inflow and infiltration (I & I) in the sewage conveyance system. The Order requires the Town to conduct an I & I study by June 30, 2004, and specifies at a minimum what the I & I study shall entail. The Order also requires the Town to develop a plan of action to correct the I & I. The plan of action is required to identify I & I projects, and to include a financial plan to pay for the projects. The Order requires the plan of action to be submitted for DEQ approval by August 30, 2004. Once DEQ reviews the plan of action for reasonableness, i.e., the plan of action appears likely to prevent the facility from exceeding 95 percent design flow capacity, the financial plan is adequate to pay for the projects, and the time frame requested to complete the projects is rational given the number of projects and funds available, DEQ will approve the plan of action and it will become an enforceable part of the Order. Civil charge: No civil charge is recommended due to the Town's cooperation and quick settlement. There are many small towns with limited resources in the South Central region that have I & I problems, and fixing those problems can be expensive. Generally, the towns must raise sewer rates and apply for loans. DEQ hopes this Order will encourage other towns to follow Victoria's example.

Boston Water & Sewer Company, Culpeper County; Consent Special Order w/ Civil Charges: The Boston Water & Sewer STP serves the Longlea Conference Center and Communications Corporation of America (CCA), a direct mail printing company, and has a rated design capacity of 15,000 gallons a day with average flows of 1000 to 2000 gallons a day. From January through July 2003, the STP exceeded permit effluent limits for ammonia, BOD₅, and total suspended solids ("TSS") because low loadings and elevated zinc levels in the CCA influent had impaired the STP's biological processes. To correct the problem, Boston Water & Sewer implemented operational improvements, including addition of seed sludge, feedstock augmentation, and removal of specific constituents in the CCA waste stream. Since implementing these improvements in August 2003, the STP has met permit effluent limits for ammonia, BOD₅, and TSS. In October 2003, the STP exceeded the whole effluent toxicity (WET) permit limit because of inadequate treatment and removal of dechlorination tablet residue in the wastewater effluent. Pursuant to the proposed Order, Boston Water & Sewer has submitted a plan and schedule for effectively treating and removing the residue and ensuring consistent compliance with the STP's WET limit. The proposed Order includes a schedule of compliance that requires Boston Water & Sewer to: (1) ensure that incompatible materials do not enter the STP from the CCA facility by conducting regular monitoring of the influent; (2) execute an agreement with CCA that requires the printer not to discharge anything other than ordinary domestic sanitary wastewater to the STP; (3) monitor treatment plant influent to determine organic loading and implement feedstock augmentation as needed; and (4) perform an analysis of the cause of the WET violation and submit a plan for corrective action. Boston Water & Sewer has complied with items one through three and part of item four in the proposed Order's schedule of compliance. The cost of complying with the Order is estimated to be approximately \$5,000. Costs associated with the upgrades required to address the WET limit issue are not included in the estimate. Civil charge: \$1,960

South Wales Utility, Inc., Culpeper County; Consent Special Order w/ Civil Charges: The WWTP has a rated design capacity of 70,000 gallons a day. In general, wastewater treatment consists of extended aeration, clarification, and disinfection. In August 2002, the WWTP's secondary clarifier drive failed causing the sludge scraper to break. The broken sludge scraper prevented the efficient removal and return of activated sludge from the secondary clarifier to the aeration basin. Due to the equipment failure, the WWTP could not effectively manage solids. South Wales initial attempts to correct the problem failed, and in December 2002, South Wales submitted to DEQ plans for modifying the sludge return system. In February 2003, South Wales completed modifications to the system, treatment efficiency began to improve, and in April 2003, the WWTP began meeting Permit effluent limits. The WWTP began to

experience problems with the sludge return system again in July. DEQ met with representatives of South Wales on August 5, 2003, to discuss South Wales's plans for improving the WWTP's performance. During the meeting, South Wales representatives explained that South Wales's long-term plan is to replace the existing WWTP with a new, larger WWTP which has been permitted by the Board. At the time of this August meeting, South Wales anticipated that, by the end of 2003, County rezoning approvals and agreements for the constructing the new WWTP would have been secured. The estimated cost of constructing the new facility is \$6,000,000. As a result of the meeting, South Wales agreed to provide DEQ with a plan and schedule for replacing the existing WWTP's clarifier, if negotiations with the County regarding construction of the new facility continued into 2004. Replacement of the secondary clarifier should ensure the existing WWTP's consistent compliance with Permit effluent limits and provide for sufficient additional storage capacity needed to properly manage high flows because the existing secondary clarifier can then be adapted for use as an equalization basin. South Wales did not secure County rezoning approvals and agreements for constructing the new WWTP by the end of 2003 and, as a consequence, has agreed to replace the existing WWTP's clarifier. The proposed Order includes a schedule of compliance that requires that South Wales replace the WWTP's secondary clarifier by March 31, 2005, and conduct in-stream monitoring for dissolved oxygen and ammonia as nitrogen during the construction of the upgrade. In addition, the proposed Order provides interim effluent limits for TSS, BOD₅, and ammonia until construction of the upgrade is complete. The estimated cost of replacing the secondary clarifier is \$100,000. Civil charge: \$6,580

BFI Waste Systems of VA, L.L.C., Richmond; Consent Special Order with Civil Charges: BFI owns and operates a municipal solid waste management facility in Richmond, VA. During routine water monitoring activities conducted in November 2002, staff observed low pH values in Almond Creek. A subsequent investigation traced the low pH to BFI's Old Dominion Landfill. Three sources on the property were identified as contributing to the low pH condition. An underdrain system associated with the landfill liner discharging low pH groundwater, a large stockpile of soils used in daily operations contributing low pH runoff into the stormwater management system and the existing stormwater detention ponds consisting of old quarry ponds created prior to construction of the landfill. The ponds are dug into miocene clay materials that also contribute to a low pH condition. The facility's general stormwater permit does not allow discharges that contravene the water quality standards. The Department issued a Notice of Violation in December 2002 citing pH discharges in violation of the water quality standards. The order requires submission of a permit application and plan for separating the landfill operations stormwater from the old quarry pond system. Weekly pH monitoring is required until separation of the stormwater is completed. The order also requires collection of the underdrain discharge, pH adjustment and storage for use in dust control or discharge through the separated stormwater system. The estimated cost of the order requirements is \$160,000. Civil charge: \$28,000.

Brunswick County School Board; Consent Special Order with Civil Charges: The wastewater treatment plants located at each school have experienced permit effluent limitation violations including pH, ammonia and 5-day biological oxygen demand. Administrative violations have also occurred including use of inappropriate reporting forms, inadequate reporting of data and failure to submit revised operations and maintenance manuals. The Department issued a Notice of Violation to each school in February 2003. Poor operation and maintenance is most likely the cause of these violations. The employee responsible for wastewater system operations experienced health problems and was unable to work. The School Board has since hired a consultant to assist in operations of the wastewater systems. The order requires submission of written procedures for sampling and reporting requirements, purchase of a pH meter or use of a consultant to perform pH monitoring and development of a corrective action plan to bring the Meherrin-Powellton facility into compliance with permit pH limitations. The cost of injunctive relief is estimated to be \$3,000. Civil charge: \$2,700.

Honeywell International Inc., Hopewell Facility, Hopewell; Consent Special Order with Civil Charges: On May 6, 2003, Honeywell reported a release of 2,500 gallons of hydroxylamine sulfate that occurred after a hydrolysis kettle 2" pipe failed. Hydroxylamine sulfate is used in the production of caprolactam (a material used in the manufacture of nylon). The release was initially contained but a previously unidentified cross connection allowed the release to enter the process sewer. This release caused a 30 minute discharge of low pH wastewater from outfall 002. The low pH discharge resulted in a fish kill involving more than 7,000 fish primarily blue catfish, white perch and shad. The Department issued a Notice of Violation on June 5, 2003 citing unauthorized discharge and failure to maintain water quality standards. The cross connection that allowed the release to enter the process sewer has been eliminated. The order requires containment system verification testing on four additional containment areas. The cost of this verification testing is estimated to be \$30,000. Testing will be completed in 2004. Civil charge: \$47,177 consisting of a \$30,000 civil charge, \$1,323 investigative costs and \$15,854 in fish replacement costs

INDMAR Coatings Corporation, Wakefield; Consent Special Order with Civil Charges: INDMAR Coatings Corporation owns and operates a paint and coatings manufacturing facility in Wakefield Virginia. Inspections conducted in September and October 2002 determined the facility was operating without an industrial stormwater permit. The Department issued a Notice of Violation in December 2002 citing operation without the required permit. The facility was provided with the necessary application forms on several occasions. An application was eventually submitted in April 2003 but was found to be substantially incomplete. The order requires submission of a complete application (including the required Stormwater Pollution Prevention Plan) within 30 days of execution of the order. The estimated cost to develop an acceptable Stormwater Pollution Prevention Plan is \$2,500. Once issued, the VPDES permit will prohibit exposed outdoor storage of certain materials. The facility currently stores a significant number of paints and coatings in steel drums outside. The estimated cost associated with locating or constructing additional under roof storage is \$5,000 to \$25,000 depending on the method selected. Civil charge: \$1,000.

St. Paul's College, Lawrenceville; Consent Special Order with Civil Charges: St. Paul's is a small college of 750 students located in the Town of Lawrenceville. In May 2003, the Town reported a discharge of untreated sewage from the conveyance system at the college. College personnel were slow to respond to the discharge and an estimated 280,000 gallons of sewage entered Rose Creek. The Department issued a Notice of Violation in June 2003. The sewer lines at the college are old, located in a flood plain and experience significant inflow and infiltration. The college has initiated the process to secure funding for sewer system improvements. The order requires increased inspection and maintenance activities, submission of funding requests for sewer rehabilitation with completion of construction by October 2006. Because the extent of sewer rehabilitation needed is unknown at this time, the cost of injunctive relief is difficult to estimate. Civil charge: \$5,000.

Sussex County School Board; Consent Special Order with Civil Charges: The school complex sewage treatment plant has experienced numerous permit effluent limitation violations for total kjeldahl nitrogen, carbonaceous biological oxygen demand, dissolved oxygen and total suspended solids. The Department issued three Notices of Violation between October 2002 and April 2003. This is a relatively new treatment plant that was designed to treat 30,000 gpd. A new school and subdivision originally planned for the area were never built resulting in substantially lower flows to the treatment plant. This low flow condition has created operational problems. The order requires submission of a corrective action plan to address design and operational issues at the treatment plant to ensure compliance with permit limitations. The order allows a six-month period to evaluate the success of the corrective action plan. Should the plant

prove incapable of meeting permit limits, an engineering report detailing a facility upgrade must be submitted. The order also provides interim effluent limitations. The estimated cost of developing and implementing a corrective action plan is \$4,000. Civil charge: \$3,600.

Town of Warsaw, Richmond County; Consent Special Order with Civil Charges: The Town owns and operates a sewage treatment plant in Richmond County. In July 2002, an unauthorized sewage discharge of approximately 150,000 gallons occurred from a system pump station. Between January and July 2003, the Town reported permit effluent limitation violations for total suspended solids, ammonia, copper and zinc. The Department issued a Notice of Violation in July 2003. The order requires plans, financing and construction of a facility upgrade to be completed by September 2006. The order also provides interim effluent limitations. The Town is currently evaluating several options for gaining permit compliance with the existing lagoon treatment system including relocation of the discharge to a larger receiving stream, land application of treated effluent or construction of a new treatment plant. Due to the wide range of possible options, the cost of injunctive relief is difficult to estimate at this time. Any one of the options will involve substantial cost. Civil charge: \$7,000.

Augusta County Service Authority/Fishersville Regional Sewage Treatment Plant; Consent Special Order w/ Civil Charges and a Supplemental Environmental Project: The Augusta County Service Authority ("ACSA") owns and operates the FRSTP located in Augusta County, Virginia. The Permit authorizes the discharge of treated sewage from the FRSTP to Christians Creek. Based on information contained in the Discharge Monitoring Reports for the FRSTP and other information contained in DEQ's file for the facility, DEQ issued an NOV to the ACSA on May 7, 2003, citing violations of the VPDES Permit limits for ammonia, total suspended solids ("TSS") and biochemical oxygen demand ("BOD"). The NOV also cited solids losses to Christians Creek occurring on three occasions in January and February 2003. DEQ issued an NOV to the ACSA on August 11, 2003, citing violations of the VPDES Permit limits for TSS and BOD. The ACSA attributes the violations to the following causes: (a) deficiency in the design of the FRSTP secondary clarifiers; (b) maintaining a high solids inventory; (c) Inflow & Infiltration ("I/I"); and, (d) excessive wet weather flows from the Waynesboro and Staunton City collection systems. The City of Waynesboro has committed to changing the impeller at its Bookerdale Pump Station to reduce the velocity of the wet weather flows it sends to the FRSTP in order to reduce the potential for these flows to cause a solids loss at the FRSTP. The Bookerdale Pump Station is used only under emergency conditions and was last used in April 2003. The ACSA budgets approximately \$300,000 per year for I/I reduction and has hired an I/I Project Engineer. At DEQ's request, the ACSA submitted a plan and schedule of corrective action to address the apparent violations. Portions of the plan and schedule, including elements of an active 5.5 million dollar upgrade to the FRSTP, have been incorporated into Appendix A of the Order. DEQ and the Virginia Department of Health have approved the plans for the FRSTP upgrade and construction commenced on May 5, 2003. The major component of the upgrade entails replacing the existing secondary clarifiers with two 65-foot diameter clarifiers. The proposed Order requires the ACSA to complete the upgrade to the FRSTP by February 1, 2005, and maintain optimum mixed liquor suspended solids levels pending completion of the upgrade. The Order includes interim limits for TSS and BOD. As noted above, the cost of injunctive relief is 5.5 million dollars. Civil charge: \$4,284 civil charge consisting of a cash payment of \$1,071 and a SEP in the amount of \$3,213.

Campbell's Septic Tank Cleaning, Inc., Augusta County; Consent Special Order w/ Civil Charges: Campbell's Septic Tank Cleaning, Inc. ("Campbell's"), owns and operates a septage pumping, storage and treatment facility under the terms of a permit issued by the Central Shenandoah Health District. The permit authorizes tank storage, stabilization and land application of septage. The permit and State Water Control Law prohibit the discharge of septage to waters of the State. On August 26, 2003, a citizen reported what was suspected of being septage in the South River near Greenville in Augusta County.

Staff of DEQ and the Central Shenandoah Health District conducted an investigation at Campbell's land application site and observed a tank truck owned by Campbell's actively spreading septage on the land application site. Staff observed that the field receiving septage sloped toward the South River. DEQ staff photographed septage entering (discharging into) the South River. DEQ staff took in-stream measurements and collected samples of water from the stream; however, DEQ did not document any significant impacts to the receiving stream, including the benthic community. On September 3, 2003, DEQ issued a Notice of Violation ("NOV") to Campbell's citing violations of State Water Control Law. The Central Shenandoah Health District also issued an NOV to Campbell's for violation of that agency's Septage Storage and Treatment Facility Permit. Under the proposed Order, prior to any land application of septage, Campbell's must have a detailed consultation with all septage haulers concerning the requirements of DEQ, the Virginia Department of Health (Central Shenandoah Health District) and Campbell's Septic Tank Cleaning, Inc., to ensure proper land application and prevention of runoff. The Order also incorporates the septage application rates and setbacks contained in the permit issued to Campbell's by the Central Shenandoah Health District. The cost of the injunctive relief contained in the Order is expected to be minimal. Civil charge: \$5,000 cash civil charge.

Grap Equipment, Inc., Fluvana County; Consent Special Order w/ Civil Charges: On February 11, 2003, VRO staff investigated a salamander kill in an unnamed tributary to Lake Monticello in Palmyra, Virginia, which occurred on February 9, 2003. A neighbor at 31 Zephyr Road had notified VRO of the salamander kill. A small stream flows through a wooded ravine, bordered closely by houses along Zephyr Road. During the course of VRO's investigation, it was discovered that concrete had been discharged to the stream as a result of cleanup operations following the pouring of concrete by Grap to reinforce the basement wing walls of a nearby home on Zephyr Road in Palmyra. Freshly poured concrete was found in and around a culvert in the stream behind this nearby home. DEQ inspectors determined that the concrete washed out into the stream and caused a sharp increase in the water's pH, which killed the salamanders. Virginia Code § 62.1-44.5A(3) prohibits discharges of wastes which alter the physical, chemical, or biological properties of State waters to the detriment of aquatic life. Virginia Administrative Code section 9 VAC 25-31-50(A) similarly prohibits such discharges into State waters. Virginia Code § 62.1-44.5B and 9 VAC 25-31-50(B) also require that such discharges be reported to DEQ. Grap was issued a Notice of Violation (NOV) on April 30, 2003 citing the violations described in the above paragraph. Grap signed a Consent Special Order (CSO or Order) with DEQ on October 23, 2003, agreeing to the above-stated findings of fact and conclusions of law. The proposed Order assesses a civil charge. Grap is operating in compliance with State environmental regulations. Civil charge: \$3,500

National Fruit Product Company, Inc./Winchester Plant, Winchester; Consent Special Order w/ Civil Charges: National Fruit Product Company, Inc. / Winchester Plant ("NF-WP") operates a fruit processing facility near Winchester in Frederick County, Virginia. Under the terms a VPA Permit, NF-WP land applies fruit processing wastewater on 2 spray field sites. The VPA permit provides that no irrigation of wastewater shall occur between November 15th and March 15th of each year. On March 19, 2003, DEQ staff conducted an inspection of the NF-WP spray field sites after receiving a citizen complaint alleging that wastewater was running off of the spray fields. DEQ staff did not observe wastewater leaving the permitted spray fields. DEQ staff reviewed the spray field records on site and recorded the dates, times and volumes of wastewater that had been irrigated onto the spray fields before March 15, 2003. Based on NF-WP's spray field records, the company irrigated a total of 760,333 gallons of wastewater during 7 separate days prior to March 15, 2003. This action allowed NF-WP to benefit economically through noncompliance with the VPA permit and the 2001 Consent Order (see below). The civil charge included in the Order recovers a significant portion of this economic benefit of noncompliance. DEQ found no evidence of environmental impact resulting from the violation. The Order includes a civil charge with recovery of economic benefit of noncompliance as a deterrent to future noncompliance. The Order

requires alternative methods of wastewater disposal for use during times when NF-WP's storage facilities are full and when spray irrigation is prohibited under the terms of the VPA permit. NF-WP has expanded its permitted land application area by over 25 percent from its previous area. The expansion acreage became available for use for the first time in the 2003 irrigating season. If the expansion area had been available in the latter part of the 2002 season, it is probable that NF-WP would have come through the winter with sufficient storage capacity to meet the March 15th date for authorized irrigation. In this case, the injunctive relief (expansion of the land application area) pre-dated the Order. The injunctive relief required by the Order would be implemented only if NF-WP temporarily runs out of wastewater storage capacity thus its costs would be unknown until and if it becomes required. Civil charge: \$8,000

Houff's Feed & Fertilizer Company, Rockingham and Augusta Counties: The purpose of this agenda item is to determine the appropriate action regarding the addition of the proposed land application sites as approved sites under VPA Permit No. VPA01566. The permittee, Houff's Feed & Fertilizer Company, has proposed to add sites for the land application of sludge in Rockingham and Augusta Counties. VPA Permit No. VPA01566 was last reissued to Houff's on June 23, 1999. The permit authorizes the land application of both Municipal and Industrial sludges in accordance with Class B PC sewage sludge requirements to the maximum extent possible. Class B PC is a quality that limits pathogens and chemical pollutants in the sludge. A hearing was held prior to the 1999 permit reissuance to address many of the same concerns for which a hearing was held last month. Two years following the permit reissuance, the owner requested that the permit be modified to delete several land application sites and to include a special condition that allows the addition of new land application sites and storage facilities in accordance with procedures specified in the approved Operations & Maintenance Manual. This modification was processed on October 4, 2001. On October 24, 2003, the permittee submitted the required information for the proposed addition of five land application sites, divided into 30 individual fields, with a total acreage of 498.5 acres. Notice to landowners adjoining the proposed land application sites was provided on October 22, 2003, and the public notice for this proposed action was published in the Daily News Record on October 27, 2003. The public hearing was held on February 12, 2004.

Consideration of Petition to Designate a Section of the Main Stem of the Cowpasture River and Simpson Creek as Exceptional State Waters: Staff intends to report to the Board at their March 23, 2004 meeting on amending the Water Quality Standards regulation to designate as Exceptional State Waters a section of the main stem of the Cowpasture River and the entire length of Simpson Creek, which is a tributary to the Cowpasture.

General VPDES Permits for Discharges of Storm Water, 9 VAC 25-151-10 et seq., and 9 VAC 25-180-10 et seq.: The purpose of this agenda item is to request that the Board adopt two general permit regulations as final regulations. At the Board's October meeting, the staff presented a draft regulation amendment for Storm Water Discharges Associated With Industrial Activities (9 VAC 25-151-10 et seq.), and a draft regulation amendment for Storm Water Discharges From Construction Activities (9 VAC 25-180-10 et seq.). A public hearing was held on these proposed rulemakings on January 13th in Richmond. Written public comments were received from December 1st through January 30th.

General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Nonmetallic Mineral Mining, 9 VAC 25-190: This is a final regulation. The staff will ask the board to adopt the regulation establishing the General VPDES Permit for Nonmetallic Mineral Mining, 9 VAC 25-190, as amended. It has been amended to update the general permit and reissue it for a third five-year term. The Board authorized a public hearing for this rulemaking on October 28, 2003. A public hearing was held on January 13, 2004 and the public notice period ended on January 30, 2004. Only one comment was received. No changes have been made to the draft since the board previously reviewed it. The purpose of this proposed regulatory action is

to reissue the general VPDES permit for wastewater discharges associated with nonmetallic mineral mines. The general permit for nonmetallic mineral mines covers discharges from various types of quarries, mostly crushed stone and sand mining facilities. The staff reviewed the current permit and performance by the facilities covered under it, and made only minor changes in the reissuance draft. No further changes have been made since the public notice period.

Confined Animal Feeding Operations - Proposed Regulatory Actions: (1) Propose new General Virginia Pollution Discharge Elimination System (VPDES) General Permit Regulation for Concentrated Animal Feeding Operations 9VAC25-191; (2) Amend and reissue General Virginia Pollution Abatement (VPA) General Permit Regulation for Confined Animal Feeding Operations 9VAC25-192 and (3) Amend General Virginia Pollution Abatement (VPA) General Permit Regulation for Poultry Waste Management 9VAC25-630: Virginia currently regulates concentrated animal feeding operations (CAFOs) under the Virginia Pollution Abatement (VPA) Permit Regulation 9VAC25-32, the VPA General Permit Regulation for Confined Animal Feeding Operations 9VAC25-192, and the VPA General Permit Regulation for Poultry Waste Management 9VAC25-630. CAFOs are either issued an individual VPA permit or are registered for coverage under one of the two general permits. There are approximately 18 animal feeding operations permitted with an individual VPA permit and approximately 155 operations covered under the VPA CAFO general permit. There are currently over 1,020 poultry operations registered under the VPA poultry general permit. On December 15, 2002, the EPA Administrator signed final revisions to the Effluent Limitations Guidelines and National Pollutant Discharge Elimination System (NPDES) Regulations for CAFOs. As a result, changes to 40 CFR Parts 9, 122, 123 and 412 were published in the Federal Register Volume 68, No. 29, dated February 12, 2003 and became effective on April 14, 2003. Pursuant to these changes, Senate Bill No. 896 was passed in the 2003 legislative session to amend §62.1-44.17:1 of the Code of Virginia, enabling and directing the Board to promulgate regulations to comply with the federal regulations. The result of the changes to 40 CFR is that operations that meet the Federal definition of Concentrated Animal Feeding Operation (CAFO) found in 40 CFR Part 122.23 must seek coverage under a Federal National Pollution Discharge Elimination System (NPDES) permit. The State Water Control Board has the authority to administer the Federal NPDES program within Virginia through the VPDES program. Certain CAFOs currently regulated by Virginia's VPA regulations meet the federal definition and must therefore be regulated under the federally delegated VPDES program. To comply with the federal requirements, a new VPDES General Permit regulation is being proposed to address the requirements of the federal CAFO rule, and amendments to the existing VPA general permits are being proposed to exclude those CAFOs that will be subject to regulation by the proposed VPDES general permit. Additionally, the VPA General Permit for Confined Animal Feeding Operations expires November 16, 2004 and will be reissued. Some of the changes that will affect operations subject to VPDES permitting are as follows:

- The maximum permit term will be five years. The VPA general permits each have a term of ten years.
- Section 62.1-44.17 of the Code of Virginia establishes a maximum civil penalty of \$2,500. Facilities subject to VPDES permitting under the federal CAFO rule may face a maximum penalty of 25,000 per day for each violation of the Clean Water Act, and other criminal and administrative penalties may also apply.
- Record keeping requirements are more detailed under the federal CAFO rule and more routine self-inspection and documentation will be required.
- The federal CAFO rule has, in most cases, less stringent land application setback requirements
- The VPA regulation allows no discharge from a facility except in the event of a 25-year, 24-hour storm event. The federal CAFO rule keeps this as a design standard for existing large CAFOs and new large beef and dairy CAFOs. New large CAFO swine and poultry operations must be designed for no discharge except in the event of a 100-year, 24-hour storm event.

- The current VPA permitting program is a Virginia program not subject to EPA review and oversight. Under the VPDES permitting structure, there will be provision for EPA involvement during the issuance of the VPDES CAFO permit and after it is issued.

Public Participation Procedures for Water Quality Management Planning: The purpose of this memorandum is to document changes to the “Water Quality Management Planning Public Participation Guidelines Guidance Manual” and to present the revised document entitled “Public Participation Procedures for Water Quality Management Planning” to the State Water Control Board (“the Board”) for approval. In May 2002, the Board approved the “Water Quality Management Planning Public Participation Guidelines Guidance Manual”. The document sets forth the public participation procedures that the Board should follow in connection with the development of Total Maximum Daily Loads (“TMDLs”), 305(b)/303(d) integrated reports, and the 303(e) Water Quality Management Plans (“WQMPs”). For those Water Quality Management programs that are developed in accordance with Federal Regulations and are exempt from Article II of the Administrative Process Act (“APA”), the procedures are intended to ensure adequate opportunity for the public and stakeholders to participate in the development and implementation of these programs. Since May 2002, the several issues were identified that staff believes require modification. The proposed staff changes to the document include, but are not limited to, the following:

- 1) clarify the difference between WQMPs and the WQMP regulation [9VAC 25-720],
- 2) clarify the difference between TMDLs (i.e. pollutant allocations) and TMDL reports,
- 3) propose that the Board approve the TMDL report as the plan for achieving attainment of water quality goals for impaired waters and approve inclusion of the TMDL in the appropriate WQMP,
- 4) propose that the Board adopt some TMDL Waste Load Allocations (“WLA”) as part of 9VAC 25-720, the Water Quality Planning Regulation, and
- 5) add a reference to the right to petition (§2.2-4006B) subsequent to the TMDL WLAs being adopted as regulations.

Approval of Portions of Eight TMDL Reports and Amendment of Water Quality Management Planning Regulation to Incorporate Waste Load Allocations (WLAs) from Eighteen Total Maximum Daily Loads (TMDLs): Staff is proposing Board actions on eight TMDL reports and staff intends to recommend that the board approve portions of these TMDL reports as the Commonwealth's plan for achieving the pollutant reductions necessary for attainment of water quality goals for the impaired waters. The sections to be approved contain the TMDL and all the TMDL allocation components, the pollutant reduction scenarios, implementation strategies, reasonable assurance that TMDL can be implemented, and a summary of the public participation. The remainder of the TMDL report is support information. Also, staff will seek Board authorization to update the appropriate Water Quality Management Plan to incorporate the approved portion of the eight TMDL reports pursuant to 40 CFR §130.7(d)(2). Also, staff is proposing that the Board adopt the amendments to the Water Quality Management Regulation (9 VAC 25-720) to include eighteen TMDL waste load allocations contained in the eight EPA approved TMDL reports.

Brownfield Remediation Loan Program: Legislation adopted during the 2001 session of the Virginia General Assembly allowed for the expansion of funding activities of the Virginia Wastewater Revolving Loan Fund for the remediation of Brownfield sites involving contaminated water resources in the Commonwealth. In March of 2002, the Board approved guidelines for the administration of this program, agreed to a 10% goal oriented set-aside making approximately \$ 3.5 million available for the program, and directed the staff to proceed with program implementation. We have received one loan application from The Peck Company for \$960,000. We are in the process of evaluating the application and arranging a meeting with the applicant to discuss the project.